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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,804	11/24/1999	DAVID L. SALGADO	D/99253-690	5473

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EXAMINER

PANNALA, SATHYANARAYA R

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/448,804

Applicant(s)

SALGADO ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Applicant's Amendment After Final filed on 8/25/2003 is entered. The finality of the previous Office Action has been withdrawn after thorough examination. On the basis of this Office Action, claims 1- 14 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-2, 12- 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146), and in view of Nakagawa et al. (US Patent 5,835,911).

4. As per independent claims 1, 12, Misra rendered by the following:

“a user interface connected to the system controller for displaying the software copyright data from the memory to a user” (a user connected to license server can access the license store information) at Fig. 2-3, col. 6, lines 6-8; col. 9, lines 62-67.

Misra teaching is analogous to “a system controller for collecting the software copyright data from multiple platforms” (at Fig. 1,3, col. 11, lines 46-59). As shown in the Fig. 1, elements 30(1), 30(2) ... represent clients connected to intermediate servers elements 32(1), 30(2) ... These servers are connected to license server element 28. The clients 30 representing many different kinds of computers (at Fig. 1, col. 5, lines 13-23). Misra does not teach explicitly software distribution over network. However, Nakagawa teaches specifically teaches a number of sets of software distribution and maintenance via network connecting to many vendors and users of client/server software (see abstract of Nakagawa). So, Nakagawa teaches this limitation (at Fig. 1, col. 9, lines 47-63), the element 3 is the software vender and clients are 1-1, 1-2, ..., 1-n are connected to software vendor computer 3 through a network 2. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple software users. Distribution and maintenance of software

license is necessary provide latest version of software and to eliminate unauthorized usage of the software.

5. As per dependent claims 2, 13, Misra teaches "the system controller for collecting the software copyright data from multiple platforms further comprises a memory for storing the software copyright data collected by the system controller" at Fig. 3, col. 6, lines 50-64.

6. As per dependent claim 14, Misra teaches "the memory for storing the software copyright data collected by the system controller further comprises non-volatile memory" at Fig. 2, col. 5, lines 40-53.

7. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Misra et al. (US Patent 6,189,146) and in view of Nakagawa et al. (US Patent 5,835,911) and further in view of Menezes et al. (US Patent 5,621,894).

8. As per independent claim 3, Misra rendered by the following:

"displaying the collected attribute data..." at Fig. 2-3, Col. 6, line 15-17;
Table 3-4, col. 9, lines 1-61.

"polling at least two platforms..." Misra teaches similar to polling and it is achieved by the client reaching the license server (at Fig. 3, col. 10, line 30-37).

Nakagawa also teaches similarly (at Fig. 6, col. 31, lines 49-53). However, Menezes teaches specifically polling platforms at Fig. 2, col. 16, lines 43-45.

Thus, it would have been obvious to one ordinarily skilled in the art at the time of the invention decide to use polling other platforms/devices in the network to

collect and consolidate the information in order to respond to the queried platform/device.

“collecting the attribute data...” Misra teaching is analogous to multiple users obtaining software license (at. Fig. 3, col. 11, lines 46-59). However, Nakagawa teaches specifically at Fig. 1, col. 9, lines 47-63. Thus it would have been obvious to one ordinarily skilled in the data processing art at the time of the invention decide to incorporate multiple users. Distribution and maintenance of software license is necessary to eliminate unauthorized usage of the software.

9. As per dependent claims 4-5, Menezes teaches “the step of polling at least two platforms for attribute data further comprises the step of automatically polling at least two platforms during power on of the at least two platforms” at Fig. 2, col. 17, lines 56-67.

10. As per claims 6 and 7, Misra teaches “the step of collecting copyright information...” at Fig. 4, col. 14, line 14-29.

11. As per claims 9, 10 and 11, Misra teaches “automatically displaying the attribute...” at Fig. 2-3, Col. 6, line 15-17; Table 3-4, col. 9, lines 1-61.

Response to Arguments

12. Applicant's arguments filed on 8/25/2003 have been fully considered but they are not persuasive and details as follows:

A) Applicant's argument states as "Claim 1 recites a system manager for collecting attribute data from multiple plat forms... In Misra a license or license pack is requested from the license generator by the client."

In response to the Applicant's argument, examiner respectfully disagrees with the applicant's interpretation. Misra et al. (US Patent 6,189,146) hereinafter Misra, teaches that the license generator, license server are part of the licensing clearinghouse and intermediate servers provided by licensing clearinghouse to facilitate connectivity (for clients might not have network connectivity) to the license server for the purposes of distributing software licenses to the clients at col. 2, lines 22-31. When a company wants a software license, it sends a purchase request to the licensing clearinghouse. The license server maintains an inventory of software licenses that have been purchased from licensing clearinghouse. When a client connects to a server, the client presents a valid license if it has one and the license server initially checks if the requesting client has already been issued a license and reissues for valid clients at col. 3, lines 1-7.

B) Applicant's argument states that although Misra may allow for different clients ...on page 4, lines 3-5.

In response to the applicant's argument, examiner respectfully disagrees with the applicant's argument. Misra teaches collecting information (applicant calls as attributes) relating to software from client when the first time license is issued and maintained thereafter by the license server (part of licensing

clearinghouse). The information is updated whenever the revised version of software is provided to the client (see at col. 3, lines 8-15). In the earlier Office Action clearly stated that Nakagawa teaches the claim 1, limitation of "collecting attribute data from multiple platforms (See Office Action mailed on 5/23/2003). Nakagawa et al. (US Patent 5,835,911) hereinafter Nakagawa, do teach this limitation. For quick and brief citation, see the abstract.

C) Applicant's argument states as "Misra and Nakagawa detail N instances of 1 to 1 data model..." on page 5, lines 18-21.

In response to the applicant's argument, examiner respectfully states that Applicant has misinterpreting prior art and keeps on arguing on the same point. Misra and Nakagawa do teach software with the latest version provided to several clients (see Misra at Fig. 1, elements 30(1), 30(2), ..., 30(6), col. 4, lines 15-21 and Nakagawa at Fig. 1, elements 1-1, 1-2, ..., 1-n, col. 9, lines 20-28).

D) Applicant's argument regarding claims 2 and 13, states as "Furthermore, Misra does not disclose or suggest a memory for storing 'attributes' data 'collected' by the system manager" on page 5, line 26 to page 6, line 7.

In response to the applicant's argument, Misra teaches storing software attributes on license server (element 28) (at Fig. 3, col. 9, lines 53-61) Tables 3 and 4 are stored on license server (Fig. 3, element 112, at col. 8, lines 61-62).

E) Applicant's argument states pertaining to claims 3-11 as "Claim 3 recites 'polling at least two platforms...' at page 6, lines 15-24.

In response to the Applicant's argument, I do agree with the applicant's argument that Misra does not teach polling other platforms. Because of this reason, the prior art of Menezes et al. (US Patent 5,621,894) hereinafter Menezes, is combined with Misra and Nakagawa. Menezes teaches explicitly polling other systems. Polling example is given by Menezes with respect to FAX machine (at Fig. 2, col. 16, lines 43-45). The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


14. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

15. If a reference indicated, as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is (703) 305-9601 for faster service.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (703) 305-3390. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (703) 305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


Sathyanarayan Pannala
Examiner
Art Unit 2177

srp
October 14, 2003


GRETA ROBINSON
PRIMARY EXAMINER